



CHAMBERS OF
JEROME B. SIMANDLE
U.S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ORIGINAL FILED WITH CLERK

November 6, 2018

UNITED STATES COURTHOUSE
ONE JOHN F. GERRY PLAZA
P.O. BOX 2797
CAMDEN, NJ 08101
(856) 757-5167

Igor B. Litvak, Esq.
1701 Avenue P
Brooklyn, NY 11229

Re: United States v. Vladimir Drinkman
Cr. No. 09-626 (JBS)

Dear Mr. Litvak:

I have received your letter of October 18, 2018 [Docket Item 131], requesting me to conduct a hearing to determine whether you can represent Mr. Drinkman who was a co-defendant of your client, Dmitriy Smilianets. I sentenced Drinkman and Smilianets separately on February 15, 2018. Both dockets have been closed for almost nine months.

I am not sure what you are requesting me to do. I no longer have the Smilianets case or the Drinkman case before me and am unsure I would have jurisdiction to make any determinations about waivers of conflicts and the like. Moreover, your suggestion that I should appoint an "independent counsel to discuss the waiver of conflict with both co-Defendants" is highly unusual, and the Court does not have funds to expend on paving the way for former defendants, who have privately retained attorneys, to retain one-another's attorney through waivers of conflict.

My advice, such as it is, would be for you to consult the New Jersey Rules of Professional Conduct governing lawyers who are admitted to practice before this Court pursuant to L. Civ. R. 103.1(a) & 104.1(h), especially RPC's 1.7 & 1.9.

Also, your letter does not provide a context for your desired retention as counsel for Mr. Drinkman, i.e., whether in connection with this matter or some other matter; and if it involves this criminal case, whether Drinkman seeks to be involved in a post-sentencing motion or an appeal. or a petition under 28 U.S.C. § 2255.

It if is your intention to reopen this criminal case, I suggest that you also consult Fed. R. Crim. P. 44(c) concerning joint representation and see if it is applicable.

I hope this is responsive to your inquiry. I am filing my letter with the Clerk of Court and sending a copy to Drinkman's counsel of record, Michael Riley, Esq., and to

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the attorneys from the Department of Justice who appeared at the sentencings, namely Andrew Pak of the Computer Crime and Intellectual Property Section in Washington and AUSA Justin Herring in Newark. Please include them on any further correspondence or motion practice in this matter.

Very truly yours,

s/ Jerome B. Simandle

JEROME B. SIMANDLE
U.S. District Judge

JBS/mm

cc: Michael Riley, Esq.
Andrew Pak, Trial Attorney, U.S. Dept. of Justice
Justin S. Herring, AUSA